



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations
of International Humanitarian Law
Committed in the Territory of the
former Yugoslavia since 1991

Case No.: IT-05-87-T

Date: 11 May 2007

Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Ali Nawaz Chowhan
Judge Tsvetana Kamenova
Judge Janet Nosworthy, Reserve Judge

Registrar: Mr. Hans Holthuis

Order of: 11 May 2007

PROSECUTOR

v.

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

**ORDER ON PROSECUTION NOTIFICATION OF
INTERFERENCE WITH PROSECUTION WITNESS**

Office of the Prosecutor

Mr. Thomas Hannis
Mr. Chester Stamp

Counsel for the Accused

Mr. Eugene O'Sullivan and Mr. Slobodan Zečević for Mr. Milan Milutinović
Mr. Toma Fila and Mr. Vladimir Petrović for Mr. Nikola Šainović
Mr. Tomislav Višnjić and Mr. Norman Sepenuk for Mr. Dragoljub Ojdanić
Mr. John Ackerman and Mr. Aleksandar Aleksić for Mr. Nebojša Pavković
Mr. Mihajlo Bakrač and Mr. Đuro Čepić for Mr. Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Mr. Sreten Lukić

THIS TRIAL CHAMBER of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (“Tribunal”) is seised of the “Urgent Prosecution Notification of Interference with Prosecution Witness and Request for Direction from the Trial Chamber with Annexes A and B”, filed on 13 April 2007 (“Notification”), as well as the “Prosecution Response to Trial Chamber’s Inquiry Regarding Prosecution Witness”, filed 23 April 2007 (“Response”), and hereby issues this order.

1. On 12, 13, and 14 March 2007, Lieutenant-Colonel Lakić Đorović testified before the Tribunal as a witness. He gave evidence about the military justice system of the Vojska Jugoslavije and his experiences as a Military Prosecutor in Serbia and Kosovo in 1999.¹ During his testimony, he discussed threats he had received in Serbia in relation to his coming to The Hague to testify.²

2. On 13 April 2007, the Prosecution filed the public Notification in which it describes incidents that befell the witness after his return to Serbia, including being arrested on 10 April 2007 and being threatened with physical violence and with losing his military post.³ The Prosecution believes that a contempt of the Tribunal under Rule 77(A)(iv) may have occurred and therefore requests guidance from the Trial Chamber in this matter.

3. The Chamber was concerned to obtain additional specific information regarding the alleged maltreatment of the witness and also to preserve the status quo in relation to his employment in Serbia, pending full investigation of the allegations. Therefore, the Chamber enquired with the Prosecution regarding the superiors of the persons who were alleged to have mistreated Mr. Đorović and also requested the President of the Tribunal to consider whether he might offer any assistance in the latter regard.

4. On 20 April 2007, the President addressed the matter through diplomatic channels with Rasim Ljajić, President of the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia. On 23 April 2007, the Prosecution filed the Response, in which it provides the Trial Chamber with the identities of the commanding officers in regard to the arrest of Lakić Đorović. On 24 April 2007, Mr. Ljajić communicated via letter to the President that

¹ T. 11419–11519 (12 March 2007), 11520–11658 (13 March 2007), 11659–11730 (14 March 2007).

² T. 11515–11518 (12 March 2007).

³ Notification, Annex B.

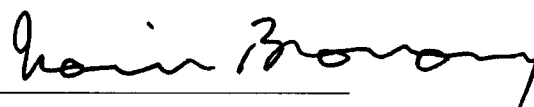
inquiries had been made into the matter and that the claims made by Mr. Đorović were not true.⁴ The letter is attached to this order as Annex A.

5. A second letter was received from Mr. Ljajić on 7 May 2007, which contained information regarding what Mr. Ljajić deemed to be the problematic behaviour of Mr. Đorović. The letter also contained information provided to Mr. Ljajić by “the certain security department” regarding the incident on 10 April 2007.⁵ The letter is attached to this order as Annex B.

6. Rule 77(C)(i) provides that, when a Chamber has reason to believe that a person may be in contempt of the Tribunal, it may direct the Prosecutor to investigate the matter with a view to the preparation and submission of an indictment for contempt. In making this determination in the present case, the Chamber considers that it would be appropriate to first give the Prosecution an opportunity to respond to the recent developments in this matter. Moreover, the Prosecution is encouraged to consider whether it should provide Mr. Đorović with copies of the correspondence, referenced herein and annexed hereto as Annexes A and B, for his comments.

7. The Trial Chamber, pursuant to Rules 54 and 77 of the Rules of Procedure and Evidence of the Tribunal, hereby ORDERS the Prosecution to make, by 18 May 2007, any further submissions it wishes in relation to whether the Chamber should direct it to investigate this matter with a view to the preparation and submission of an indictment for contempt, pursuant to Rule 77(C)(i).

Done in English and French, the English text being authoritative.



Judge Iain Bonomy
Presiding

Dated this eleventh day of May 2007
At The Hague
The Netherlands

[Seal of the Tribunal]

⁴ Letter to the President of the Tribunal, H.E. Judge Fausto Pocar, dated 24 April 2007, page 2 (Annex A).

⁵ Letter to the President of the Tribunal, H.E. Judge Fausto Pocar, dated 3 May 2007, pp. 2–3. (Annex B).

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Annex A

АМБАСАДА РЕПУБЛИКЕ СРБИЈЕ
EMBASSY OF THE REPUBLIC OF SERBIA
AMBASSADE VAN DE REPUBLIEK SERVIE

Groot Hertoginnelaan 30
2517 EG The Hague
tel. (+31) 070 36 36 800
36 32 397
36 32 393
fax 36 02 421
E-mail: yuambanl@bart.nl

No. 457-1/2007

The Embassy of the Republic of Serbia to the Kingdom of the Netherlands presents its compliments to the International Criminal Tribunal for the former Yugoslavia and has the honour to hereby submit the letter of the President of the National Council of the Republic of Serbia for Cooperation with the ICTY, Mr. Rasim Ljajić, addressed to the President of the Tribunal, H.E. Judge Fausto Pocar, concerning the alleged mistreatment of the witness Lakić Đorović.

The Embassy of the Republic of Serbia avails itself of this opportunity to renew to the International Criminal Tribunal for the former Yugoslavia the assurances of its highest consideration.



The Hague, 24 April 2007

**International Criminal Tribunal
for the former Yugoslavia
The Registry
The Hague**



Republika Srbija
Nacionalni savet za saradnju sa
Međunarodnim krivičnim tribunalom
za bivšu Jugoslaviju
Број: 5/0-10/1-07-04
Датум: 24. април 2007. године
Београд

Fausto Pocar
President of the
International Criminal Tribunal
for the Former Yugoslavia

Belgrade, April 24, 2007.

Dear Mr. Pocar,

I am writing you regarding our telephone conversation from April 20, 2007, when you made an inquiry about the witness in Milutinovic et al. case, Mr. Lakic Djorovic, and possible case of mistreatment he experienced following his return to Serbia.

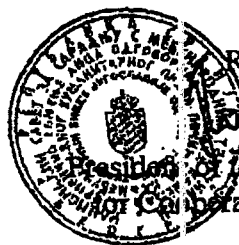
I would like to notify you that I acted upon your inquest and that I did contact, with reference to this issue, persons responsible for witnesses' security and all other questions related to possible harms that may have happened in connection to the alleged threats and abuse of Mr. Djorovic's privacy and security.

After the conducted inquiry, I was given the information that Mr. Djorovic's claims about the threats he received about losing his post, together with the information you were given on behalf of the Prosecution about Mr. Djorovic suffering personal injuries and being hospitalized, are not true. Having in mind that I contacted the persons of high confidence, and that I examined the possible accuracy of Mr. Djorovic's claims on several sides, I can tell you, in full assurance, that no case of mistreatment or threat was addressed in any way to the witness in question.

H.E. Fausto Pocar
President of the
International Criminal Tribunal
for the Former Yugoslavia
The Hague

Dear Mr. Pocar, I would like to take this opportunity and notify you that protection of the witnesses (and potential witnesses) of the ICTY Office of the Prosecutor, as well as of the witnesses of the Defense Teams, stands for the important issue within the activities of the Republic of Serbia State organs. This matter is taken seriously on behalf of all State representatives participating in Serbia's cooperation with the ICTY, and continuous measures are being taken in order for witnesses not to suffer any kind of abuse or invasion of their privacy and security during this process. Furthermore, the existence of constant activities within the State departments assures that timely preparation of the witnesses in relation to the requirements of the Prosecution and Defense Teams takes place without delay.

Hoping that the information abovementioned answer your question, please accept, Mr. Pocar, the assurances of my highest consideration.


 Rasim Ljajić
 President of the National Council
 for Cooperation with the ICTY

H.E. Fausto Pocar
President of the
International Criminal Tribunal
for the Former Yugoslavia
The Hague

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Annex B

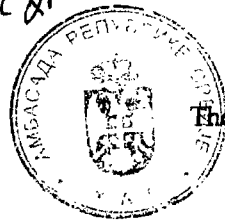
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No. 500/2007

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The Embassy of the Republic of Serbia avails itself of this opportunity to renew to the International Criminal Tribunal for the former Yugoslavia the assurances of its highest consideration.



The Hague, 4 May 2007

**International Criminal Tribunal
for the former Yugoslavia
The Registry
The Hague**

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The Embassy of the Republic of Serbia avails itself of this opportunity to renew to the International Criminal Tribunal for the former Yugoslavia the assurances of its highest consideration.



The Hague, 4 May 2007

**International Criminal Tribunal
for the former Yugoslavia
The Registry
The Hague**

FROM :

FAX NO. :

May. 03 2007 02:27AM P1



Република Србија
 Национални савет за сарадњу са
 Међународним кривичним трибуналом
 за бившу Југославију
 Број: 50-10/5-07-04
 Датум: 03.05.2007
 Београд

ВРЛО ХИТНО

AMBASADA
 Br. 499
 03 MAY 2007
 HAG

АМБАСАДА РЕПУБЛИКЕ СРБИЈЕ У ХАГУ

ПРЕДМЕТ: Писмо Председника Националног савета упућено Председнику
 Међународног кривичног трибунала

У прилогу вам достављамо писмо Председника Националног савета за сарадњу са Међународним кривичним трибуналом, Расима Љајића, упућено Председнику Међународног кривичног трибунала, Faustu Rosaru.

Молимо да писмо одмах уручите Председнику Трибунала.

Захваљујемо се на сарадњи.



СТАР КАНЦЕЛАРИЈЕ
 НАЦИОНАЛНОГ САВЕТА

Martinić
 Мартиновић

FROM :

FAX NO. :

May. 03 2007 02:27AM P2



Република Србија
Национални савет за сарадњу са
Међународним кривичним трибуналом
за бившу Југославију
Број: 510-1014-07-04
Датум: 03.05.2007
Београд

Fausto Pocar
President of the
International Criminal Tribunal
for the Former Yugoslavia

Belgrade, May 3, 2007

Dear Mr. Pocar,

As I stated in my letter from April 24, 2007, I am sending you the additional information concerning the possible case of Mr. Lakić Djorović's ill-treatment that he reported to the Office of the Prosecutor. On May 3, 2007, I have received documents that prove Mr. Djorović's inconsistency in relation to his alleged statements about the maltreatment and hospitalization the witness claimed he experienced after his return to Serbia in April 2007.

The information provided on behalf of the certain security department contains details about Mr. Djorović's behavior and work ethics, with special accent on particular incidents that occurred during the recent period. More precisely, the information received explains numerous legal actions undertaken against Mr. Lakić Djorović, during the previous period. According to the data received from competent state authorities, Mr. Djorović previously was charged for several crimes such are:

- in 1993 he was charged for shooting in public, when he injured one citizen,
- in 2005 he was charged for aggressive behavior in public place (he attacked post officer),
- in 2007 he was charged for unlawful disposal of entrusted weapon.

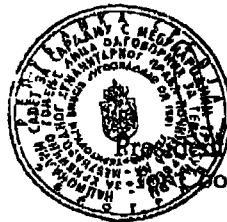
H.E. Fausto Pocar
President of the
International Criminal Tribunal
for the Former Yugoslavia
The Hague

Besides these charges, he was involved in several cases of physical violence within his military unit, such as the last case in which he was involved in physical attack on three military officers of VS (Military of Serbia). However, I am being informed that Mr. Djorovic has expressed aggressive behavior toward his fellow officers on several occasions, calling them "war crimes perpetrators", "collaborators of secret services", "scum" etc.

In relation to the alleged incident from 10 April 2007, the security department informed me that the witness was taken into custody for the reasons of unlawful disposal of entrusted weapon (Article 413 of the Criminal Code of the Republic of Serbia) and not for the reasons of any kind of abuse that could be associated in any way with Mr. Djorovic's testifying in the ICTY. According to the information I was provided with, immediately after Mr. Djorovic was taken into custody, he made complaint about his health condition and requested the presence of a physician, which was provided to him instantaneously upon his request. The finding of the physician stated that Mr. Djorovic's blood pressure was 165/95, and recommended to the witness to take pills for reducing the blood pressure, which Mr. Djorovic declined. Following Mr. Djorovic's insistence that he was experiencing chest pains, he was taken into the Military Ambulance, where the physicians, after the conducted analyses, concluded that his general health condition was stable and with no other signs of risk.

The entire information I was given insists on the fact that no legal action was taken against Mr. Djorovic's in relation to him being a witness of the Prosecution of the ICTY, and continuously emphasizes Mr. Djorovic's problematic behavior that he has expressed so far in relation to his colleagues and in general.

Hoping that the information abovementioned answer your question, please accept, Mr. Pocar, the assurances of my highest consideration.



Rasim Ljajić

President of the National Council
for Cooperation with the ICTY

H.E. Fausto Pocar
President of the
International Criminal Tribunal
for the Former Yugoslavia
The Hague